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Final Regulation Agency Background Document

Agency name	DEPT OF MEDICAL ASSISTANCE SERVICES
Virginia Administrative Code (VAC) citation	112 VAC 30-141
Regulation title	Family Access to Medical Insurance Security Plan: FAMIS Select (12 VAC 30-141-10 to 12 VAC 30-141-175)
Action title	FAMIS Select
Document preparation date	

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style, and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

This final action revamps the Employer Sponsored Health Insurance (ESHI) component of the Family Access to Medical Insurance Security (FAMIS) Program. The name of this program within FAMIS is changed to FAMIS Select; this segment of the FAMIS program is being reworked to make it more accessible and easier for FAMIS enrollees and their employers.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

I hereby approve the foregoing Agency Background Document with the attached final regulations Family Access to Medical Insurance Security (FAMIS) – FAMIS Select (12 VAC 30-141-10 to 12 VAC 30-141-175) and adopt the action stated therein. I certify that this final

regulatory action has completed all the requirements of the Code of Virginia § 2.2-4012, of the Administrative Process Act and is full, true, and correctly dated.

Date

Patrick W. Finnerty, Director
Dept. of Medical Assistance Services

Legal basis

Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The *Code of Virginia* (1950) as amended, § 32.1-351, grants to the BMAS the authority to administer and amend the Title XXI Plan (FAMIS). The *Code of Virginia* (1950) as amended, § 32.1-351(K), authorizes the Director of DMAS to “adopt, promulgate and enforce such regulations pursuant to the Administrative Process Act (§ 2.2-400 et. seq.) as may be necessary for the implementation and administration of the Family Access to Medical Insurance Security Plan.” The 2005 Appropriations Act, Chapter 951 Item 324 L and Chapter 584 [32.1-351(D), 31.2-351(2) and (3)] mandated that DMAS promulgate regulations to simplify administration of the premium assistance program available under FAMIS and to eliminate the provision that coverage for all benefits not included in the employer’s plan be provided for through supplemental insurance coverage.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

The purpose of this action is to implement a new health insurance premium assistance component for the Family Access to Medical Insurance Security (FAMIS) program to replace the current program, known as Employee Sponsored Health Insurance (ESHI). The goal of this new program is to both improve and simplify the operation and administration of the health insurance premium assistance component of FAMIS while maintaining the cost-effectiveness of the FAMIS program.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the “All changes made in this regulatory action” section.

The section of the non-State Plan regulations that is affected by this change is: Family Access to Medical Insurance Security Plan (12 VAC 30-141). This proposed action affects 12 VAC 30-141-10 (Definitions), in which DMAS deletes the definitions for ESHI and adds definitions for “FAMIS Select” and “Private or employer sponsored health insurance coverage, as well as removing all references to ESHI. In two sections, 12 VAC 30-141-40 (Review of adverse actions) and 30-141-100 (Eligibility requirements), all references to ESHI are changed to FAMIS Select references. In 12 VAC 30-141-160 (Co-payments for families not participating in FAMIS Select) DMAS is removing the prohibition on co-payments for ESHI enrollees. 12 VAC 30-141-170 [Employer sponsored health insurance (ESHI)] is being deleted. 12 VAC 30-141-175 (FAMIS Select) is a new section being added to described the program, and finally, the statement, “The Medicaid look-alike plan is also used as a benchmark for the ESHI of FAMIS” is being deleted from 12 VAC 30-141-200 (Benefit packages).

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

The primary advantage to the Commonwealth of this action is that the changes from ESHI to FAMIS Select will make it easier for FAMIS enrollees and potential enrollees to take advantage of this program. Each time a FAMIS enrollee is placed in FAMIS Select, the Commonwealth saves money on health care services costs, because rather than pay for medical services; FAMIS Select permits DMAS to pay for only the health insurance premiums of the enrollee. This is a very cost-effective use of state dollars. In addition, the enhanced availability of employer health insurance provides a more attractive alternative for the working families who cannot afford insurance through their employer. There are no disadvantages to the Commonwealth or the public concerning this action

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

No changes were made between the publication of the proposed regulation and the publication of the Final regulation.

Public comment

Please summarize all comment received during the public comment period following the publication of the proposed stage, and provide the agency response. If no public comment was received, please so indicate.

DMAS' proposed regulations were published in the April 3, 2006, *Virginia Register* for their public comment period from April 3, 2006 through June 2, 2006. No comments were received.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
12VAC30-141-10		Definition of: Adverse Action; Employer-Sponsored Health Insurance (ESHI); Family; Fixed premium assistance amount; Premium assistance; Private or employer sponsored health insurance coverage; and Supplemental coverage.	Definitions of "Adverse action" and "Family" are amended to change the name of the premium assistance program from ESHI to FAMIS Select. Strike the definition of "Employer-Sponsored Health Insurance." Insert definitions of "FAMIS Select," "Fixed premium assistance amount", and "Private or employer sponsored health insurance coverage." Amend the definition of "Supplemental coverage" to eliminate all FAMIS benefits except coverage of childhood immunizations.
12VAC30-141-40		Review of adverse action, includes ESHI reference	Changes reference from "ESHI" to "FAMIS Select."
12VAC30-141-100		Eligibility requirements, includes ESHI reference	Changes reference from "ESHI" to "FAMIS Select." Adds "insurance company" to the requirement that adverse actions related to health benefits provided through the FAMIS Select program will be resolved between the family and the employer's health plan or the insurance company. This clarifies the regulation where the child is covered by a private policy instead of through an employer-sponsored health plan. The word "Medicare" was added to the list of types of medical coverage not included in the

			definition of health insurance in (G)(2)(b). This change was based upon a policy change at the federal level.
12VAC30-141-160 C 1		Co-payments for families not participating in employer-sponsored health insurance	Eliminates the requirement that co-payments not be required for families participating in ESHI.
12VAC30-141-170		Employer-sponsored health insurance (ESHI)	Eliminates this section and replaces it with 12VAC30-141-175
	12VAC30-141-175 12VAC30-141-175		<p>Creates new section defining the FAMIS Select program. Changes from the ESHI program include:</p> <ul style="list-style-type: none"> • The ability to provide premium assistance for private insurance plans not provided through an employer; • Allow for payment of all of a family's premium if certain conditions are met; • Eliminate requirements that the employer's plan provide comprehensive coverage, that the employer contribute to the cost of the coverage, and the family receive the full employer contribution; • Clarify that the policyholder, not the applicant, assign rights to DMAS for third party payment for childhood immunizations only and the private or employer plan is the only payer for all other services; • Add an eligibility requirement that the policyholder not be under a court order to provide medical support for the applicant child; • Eliminate the requirement that the family enroll in the most cost-effective plan; • Require DMAS to provide additional information to families including a guide for making an informed choice between FAMIS and FAMIS Select; • Redefine cost-effectiveness as determined by use of a fixed premium assistance amount instead of by calculation of individual premium assistance amounts per child; • Require DMAS to determine a cost-effective fixed premium assistance amount annually that is less than or equal to the average cost per member/per month of FAMIS plus administrative costs; • Require that a family's total premium assistance amount cannot exceed the total cost of the family's monthly premium payment for the private or employer-sponsored health plan; • Provide for the immediate transfer of a child from FAMIS Select into FAMIS contingent on the termination of coverage under the private or employer plan and repayment of any required premium assistance amount;

			<ul style="list-style-type: none"> • Reduce supplemental coverage provided to children enrolled in FAMIS Select from all FAMIS benefits to only coverage for childhood immunizations; and • Eliminate provision that DMAS pay for all co-payments charged by the employer's plan for the FAMIS eligible child and instead require that families pay all costs associated with coverage under the private or employer's plan.
12VAC30-141-200		Benefit packages	Delete requirement that the Medicaid look-alike plan is used as a benchmark plan for ESHI

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

These changes do not strengthen or erode the authority or rights of parents in the education, nurturing, and supervision of their children; or encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents. It does not strengthen or erode the marital commitment and is not expected to affect disposable family income.